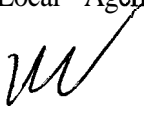




**TEXAS DEPARTMENT OF HEALTH**  
**AUSTIN, TEXAS**  
**INTER-OFFICE MEMORANDUM**

**TO:** Herman Horn, Chief, Bureau of Regional & Local Health Operations  
Regional Directors  
Directors, Local Health Departments  
Directors, Independent WIC Local Agencies

**FROM:** Bob Kissel, Acting, Chief   
Bureau of Nutrition Services

**DATE:** September 15, 2000

**SUBJECT:** Request for Comments on Proposed Change to WIC Policy Process

---

In November, the WIC program intends to present to the Board of Health a rule change which would repeal the current adoption by reference in formal rule (Texas Administrative Code, Title 25, Part 1, Chapter 3 1) of the entire WIC Policy and Procedure Manual. At the same time, the Program will propose formal rules affecting client eligibility to receive WIC benefits and vendor and local agency eligibility to participate as contractors. The formal rules will be identical to what are currently in certain policies of the WIC Policy and Procedure Manual in effect today. There will be no change to the substance or meaning of the policies. The only change will be that these policies are currently adopted by reference in the Texas Administrative Code and after the change they will be individually in rule with redesignated in a new subchapter. The remainder of the policies will continue as written today with adoption and enforcement as part of the contract with vendors and local agencies.

This change was recommended by our Texas Department of Health Office of General Counsel (OGC). There is no requirement in state or federal law/regulation for the Board of Health to adopt all WIC policies in rule. No other programs have all of their policies, procedures and operating protocols in rule. In addition, OGC has advised that if the entire policy and procedure manual remains in rule, no changes can be made to policies without going through the formal rule making process as defined in state law. The formal rule making process takes at least six months and is unnecessarily burdensome to go through for most policy changes.

This change will allow us to streamline the policy development and implementation process and respond in a timely manner to changes which are needed in the administration of the program. Many of these changes are brought to our attention by you, our contractors, and we wish to be more responsive to your requests for clarification and modification of policy whenever possible. You will continue to be involved in policy development as you are today.

Request for Comments on Proposed Change to WIC Policy Process

September 15, 2000

page 2

This memo is intended as an announcement to WIC contractors who are stakeholders in this process. This is your first opportunity to comment on the proposed change as we are in the development stage. Please send your written comments by September 22<sup>nd</sup> to :

Valerie Wolfe  
Bureau of Nutrition Services  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756

or

[valerie.wolfe@tdh.state.tx.us](mailto:valerie.wolfe@tdh.state.tx.us)

or

phone: (512) 458-7111 ext 2072 fax: (512) 458-7446 if you have questions

If the Board of Health approves the proposed rule for publication in the *Texas Register*, you will have a second opportunity to comment during the official 30 day public comment period. The publication of the proposed formal rule change will be announced on the WIC web site in November with a link to the *Texas Register* web site and instructions for comment at that time.

The proposed policies which are planned to be redesignated in their entirety in formal rule are:

AAP: 01 .O, Affirmative Action Plan

AAP: 01.1, Soliciting Agencies to Apply for a WIC Program in a High Priority Area

AAP: 01.2, Program Initiation and Expansion

AAP: 01.3, Local Agency Priority System

CR: 02.0, Nondiscrimination

CR: 03.0, Fair Hearing Procedures for Applicants/Participants

CS: 01.1, Eligibility Criteria for Program Participation

CS: 01.2, Certification Periods

CS: 01.6, Notification of Ineligibility

CS: 01.6.1, Notification of Termination

CS: 01.6.2, Notification of Certification Expiration

CS: 01.9, Certification of Foster Children

CS: 02.0, Identification of WIC Applicant

CS: 02.1, Residency as a Certification Requirement

CS: 02.3, Physical Presence

CS: 03.1, Income Screening as a Certification Requirement

CS: 03.1.1, Adjunctive Income Eligibility

CS: 03.3, Economic Unit

CS: 03.4, Definition of Income

CS: 03.5, Texas WIC Income Guidelines

CS: 04.8, Regression in Nutritional Status

FD: 01.4, Recipients of Food Instruments

FD: 10.0, Vendor Evaluations Policy

FD: 10.1, Criteria for Approving Vendors

FD: 11.0, Agreements with Vendors

Request for Comments on Proposed Change to WIC Policy Process

September 15, 2000

page 3

FD: 22.1, Selection of Allowable Foods

FD: 29.0, Participant Abuse

FD: 29.1, Collection for Benefits Improperly Received

FM: 01 .O, Agreement with Farmers' Market Associations

GA: 01 .O, Eligibility of Suspected Illegal Aliens

GA: 04.1, Participant Complaints

GA: 05.0, Right of Administrative Appeal

GA: 08.0, Contracts and Agreements with Local Agencies

GA: 13 .O, Request for Application and Application Processing

GA: 14.0, Potential and Actual Participant Abuse

IM: 01 .O, Eligibility for Immunizations

IM: 01.1, Immunization Fees

IM: 03.0, Consent for Immunizations

In order for applicants and participants to be included in the stakeholder process we are asking you to post the attached notice in your clinics if you are able to do so. It is anticipated that this entire change will be completed by April 2001. Please do not hesitate to contact Ms. Wolfe if you have any questions or to send in comments.

Attachment

## **NOTICE TO WIC APPLICANTS AND RECIPIENTS**

**This agency is under contract to the Texas Department of Health to administer the WIC program in this community. Policies of the program are determined by the Texas Department of Health in Austin and this Department has requested we provide the following information to you:**

The WIC Program intends to make a rule change to repeal the current rule in the Texas Administrative Code which adopts all WIC policies by reference but does not include the entire text of the policy in the rule. itself. After repeal, the Program will issue entire policies in rule. These rules will be identical to what is in effect today. Some of the policies affected by this change are those which impact clients because they are the rules for eligibility and the rights of clients.

Again, we stress that this is primarily an administrative change. The policies for applying for WIC and the rights of clients who apply or who are fully eligible for WIC will not change.

Other policies will be taken out of rule because they are procedures for the agencies under contract to the Texas Department of Health for running the WIC program in local communities. Still other policies will be or already have been taken out of rule because they only impact the grocers under contract to redeem food vouchers for clients.

If you have any comments on this proposal, please send them by September 22nd to:

Valerie Wolfe  
WIC Program  
Texas Department of Health  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756

or by email to: [valerie.wolfe@tdh.state.tx.us](mailto:valerie.wolfe@tdh.state.tx.us)  
or you may call Ms. Wolfe at (5 12) 458-7111 extension 2072.

**The WIC clinic staff are not authorized to take your comments on this proposal. If you have any comments or questions they must be sent to the Texas Department of Health as described above.**

**THANK YOU.**